

1 UNITED STATES PATENT AND TRADEMARK OFFICE

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3
4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
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7
8 *Ex parte* RYAN CUNNINGHAM, ROBERT BUCH, BRIAN HARTMAN,
9 MICHAEL R. JONES, JR., and LAIMONAS ANUSAUKAS
10

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12 Appeal 2006-2718
13 Application 09/545,639
14 Technology Center 2100
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17 Decided: September 12, 2007
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20 Before MURRIEL E. CRAWFORD, JENNIFER D. BAHR, and
21 ANTON W. FETTING, *Administrative Patent Judges*.
22 FETTING, *Administrative Patent Judge*.

23 DECISION ON APPEAL
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27 STATEMENT OF CASE

28 Ryan Cunningham, Robert Buch, Brian Hartman, Michael R. Jones, Jr., and
29 Laimonas Anusaukas (Appellants) seek review under 35 U.S.C. § 134 of a Non-
30 Final rejection of claims 1-22¹ and 33-60.

31 We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b) (2002).

¹ Claim 23 is pending, but is not rejected and is objected to as depending from a rejected claim and indicated allowable if drafted as an independent claim. Claims 24-32 are cancelled.

1
2 We AFFIRM .

3 The Appellants invented a technique for providing free computer user access to
4 a network. An access control system sends video advertising files to a user. A file
5 viewer program operates independently of the user's network application programs.
6 The user receives advertising files from the access control system and the viewer
7 program collects them into an ad pool stored in the user's computer. Video
8 advertising files are downloaded when the user is not actively using the bandwidth
9 of the network connection to download content through application programs. The
10 viewer program periodically opens a viewer window in which an ad from the ad
11 pool is displayed. This window opens on top of any other open user application
12 windows. When one or more video ads are finished, the viewer window is hidden
13 or made an inactive window for a quiet interval. At the conclusion of the quiet
14 interval, the viewer window is activated and the next ad in the ad pool is displayed.
15 The viewer program manages the ad pool to keep ad files from being viewed after
16 they have reached a predetermined play limit. The viewer program determines
17 when new ad files are needed. (Specification 5:11 – 6:2).

18 An understanding of the invention can be derived from a reading of exemplary
19 claim 1, which is reproduced below [bracketed matter and some paragraphing
20 added].

1 1. A method of providing a user computer with access to files of a network, the
2 method comprising:

3 [1] establishing a communication link

4 from the user computer

5 to an access control system of the network;

6 [2] launching a viewer program

7 that controls a status of the communication link;

8 [3] detecting times

9 when the user computer is not actively sending or receiving
10 data from the network, and

11 downloading ad files from the network to the user computer
12 during such times,

13 such that

14 the viewer program maintains a pool of ad files at the
15 user computer for display and

16 performs ad pool management tasks;

17 [4] periodically opening a viewer program window

18 in which a next ad file from the ad file pool is displayed;

19 [5] hiding the viewer program window

20 after a predetermined number of ad files from the ad file pool
21 have been played and

22 keeping the viewer program window hidden for a
23 predetermined quiet interval; and

24 [6] managing the ad file pool

25 so as to

26 keep track of the number of times each ad file in the ad
27 file pool has been viewed and

28 determine when each ad file in the ad file pool should no
29 longer be viewed.

1 This appeal arises from the Examiner's Non-Final Rejection, mailed August
2 10, 2005. The Appellants filed an Appeal Brief in support of the appeal on
3 November 8, 2005. An Examiner's Answer to the Appeal Brief was mailed on
4 February 14, 2006. A Reply Brief was filed on February 27, 2006.

5 PRIOR ART

6 The Examiner relies upon the following prior art:

Radziewicz	US 5,854,897	Dec. 29, 1998
Merriman	US 5,948,061	Sep. 7, 1999
Guyot	US 6,119,098	Sep. 12, 2000
Palmer	US 6,505,773 B1	Jan. 14, 2003
Landsman	US 2003/0023488 A1	Jan. 30, 2003
Hassett	US 6,807,558 B1	Oct. 19, 2004

7
8 REJECTIONS

9
10 Claims 1-3, 33-35, and 47-49 stand rejected under 35 U.S.C. § 103(a) as
11 unpatentable over Guyot, Hassett, and Landsman.

12 Claims 4, 12-22, 36, 42-46, 50, and 56-60 stand rejected under 35 U.S.C.
13 § 103(a) as unpatentable over Guyot, Hassett, Landsman, and Merriman.

1 Claims 5-10, 37-40, and 51-54² stand rejected under 35 U.S.C. § 103(a) as
2 unpatentable over Guyot, Hassett, Landsman, and Palmer.

3 Claims 11, 41, and 55 stand rejected under 35 U.S.C. § 103(a) as unpatentable
4 over Guyot, Hassett, Landsman, and Radziewicz.

5 ISSUES

6 The issues pertinent to this appeal are

7 Whether the Appellants have sustained their burden of showing that the
8 Examiner erred in rejecting claims 1-3, 33-35, and 47-49 under
9 35 U.S.C. § 103(a) as unpatentable over Guyot, Hassett, and Landsman.

10 Whether the Appellants have sustained their burden of showing that the
11 Examiner erred in rejecting claims 4, 12-22, 42-46, 50, and 56-60 under
12 35 U.S.C. § 103(a) as unpatentable over Guyot, Hassett, Landsman, and
13 Merriman.

14 Whether the Appellants have sustained their burden of showing that the
15 Examiner erred in rejecting claims 5-10, 37-40, and 51-54 under
16 35 U.S.C. § 103(a) as unpatentable over Guyot, Hassett, Landsman, and
17 Palmer.

18 Whether the Appellants have sustained their burden of showing that the
19 Examiner erred in rejecting claims 11, 41, and 55 under 35 U.S.C. § 103(a) as
20 unpatentable over Guyot, Hassett, Landsman, and Radziewicz.

² The statutory statement of this rejection omits claims 38-40 and 53-54 (Answer 9:¶ 25), but the analysis of the rejection includes these claims (Answer 10-11:¶'s 29-31 and 33) and we treat these claims as included within this rejection.

1 The pertinent issues turn on (1) whether Guyot describes element [2]'s
2 launching of a viewer program that controls a status of the communication link
3 and (2) whether Hassett describes element [3]'s detecting times when the user
4 computer is not actively sending or receiving data from the network, and
5 downloading ad files from the network to the user computer during such times.

6 FACTS PERTINENT TO THE ISSUES

7 The following enumerated Findings of Fact (FF) are believed to be supported
8 by a preponderance of the evidence.

9 *Claim Construction*

10 01. The disclosure contains no lexicographic definition of "control."

11 02. The ordinary and customary meaning of "control" as a verb, in the
12 context of the claimed subject matter, is (1) to exercise authoritative or
13 dominating influence over; and (2) to adjust to a requirement; regulate.³

14 *Guyot*

15 03. Guyot is directed towards targeting and distributing advertisements
16 over a distributed information network, such as the Internet. Guyot
17 provides a server that manages an advertisement database and that
18 provides advertisements to the "client" application that are targeted to
19 each individual subscriber, based on a personal profile provided by that
20 subscriber (Guyot 1:56-65).

³ *American Heritage Dictionary of the English Language* (4th ed. 2000).

1 04. Guyot's client application periodically accesses the server to
2 download the specifically targeted advertisements. The client application
3 displays the downloaded advertisements on the subscriber's computer,
4 preferably in an advertising "window" that is continuously displayed on
5 the subscriber's computer, even if other applications are running
6 concurrently on the subscriber's computer. Accordingly, the probability
7 that a subscriber will view an advertisement that is specifically targeted
8 for the subscriber is relatively high (Guyot 1:66-2:8).

9 05. In a preferred embodiment, Guyot's client application monitors the
10 keyboard and mouse activity on the subscriber's computer to determine
11 when the subscriber is most likely to be watching the computer screen.
12 The client application then uses this information to schedule the display
13 of advertisements on the subscriber's computer (Guyot 2:9-14).

14 06. In another embodiment, Guyot's client application activates a screen
15 saver mode when the subscriber's computer is idle for a predetermined
16 period of time. The client application then displays advertisements that
17 are specifically registered for display when the screen saver mode is
18 activated. This allows an advertiser more control over how
19 advertisements are displayed on the subscriber's computer (Guyot 2:15-
20 21).

21 07. In another embodiment, Guyot's subscriber's computer automatically
22 accesses the server to download new advertisements and to transfer
23 subscriber statistics to the server whenever an advertisement "queue" of
24 available advertisements has reached a predetermined low level trigger

1 value. This keeps the advertisements displayed on the subscriber's
2 computer up to date (Guyot 2:29-35).

3 08. Guyot's Figs. 4A and 4B show a preferred application window 500
4 for displaying the advertisements and providing other information to the
5 subscriber. The application window 500 preferably includes a window
6 frame 510, a Subscriber Context state indicator 520, an advertising
7 window 530, a status window 540, a connection button 550, and a status
8 button 560 (Guyot 5:27-34).

9 09. Guyot's application window frame 510 enables the subscriber to
10 move the application window 500 to different parts of the display 330 by
11 "dragging" and "dropping" the application window 500 to another
12 display location. The Subscriber Context state indicator 520 informs the
13 subscriber of the need to connect to the server 200 in order to update the
14 advertisement queue and to upload the Subscriber Statistics to the server
15 200. In the preferred embodiment, the color of the context state indicator
16 520 changes to reflect the need to connect to the server 200 (Guyot 5:35-
17 44).

18 10. Guyot's advertising window 530 displays the visible portion 570 of
19 the advertisement document. The advertisement document displayed in
20 the advertisement window 530 may be interactive. For example, the
21 advertisement document displayed in the advertisement window 530
22 may include an Internet link 580. The subscriber may select the Internet
23 link 580 by "clicking" on the Internet link 580 with a mouse or other
24 input device. When the subscriber selects the Internet link 580, the
25 processor 310 retrieves or "fetches" the document associated with the

1 Internet link 580 from the Internet site on which the document is stored
2 (Guyot 5:45-61).

3 11. Guyot's connection button 550 is used to establish a connection with
4 the server 200. The subscriber selects this button in order to manually
5 establish a connection with the server 200. The status button 560 is used
6 to display or hide the status window 540. When the subscriber selects the
7 status button 560, the status window 540 is alternately hidden, as shown
8 in Guyot's Fig. 4B, or displayed, as shown in Guyot's Fig. 4A (Guyot
9 6:43-49).

10 *Hassett*

11 12. Hassett is directed towards distributing, utilizing and displaying
12 disparate information in a "push" technology environment to a set of
13 subscribers. Hassett relates to adaptations of information usage that
14 conditions a "push" information system to optimally match and display
15 headlines, information text, animations, graphics and photographs for the
16 benefit of a user (Hassett 1:23-30).

17 13. Hassett does this by: 1) receiving a variety of information from a
18 plurality of sources, 2) organizing the variety of information into
19 information categories, and 3) distributing the variety of information to
20 the client devices based on the information categories requested by the
21 client devices. Hassett also includes the steps of: 4) accepting user input
22 at the client device to specify information categories for retrieval from a
23 server, 5) generating a user profile based on the information categories
24 specified by the user input, and 6) retrieving information at

predetermined intervals from the server based on the user profile
(Hassett 3:9-20).

14. As contrasted with a user initiated search that starts fresh each time it is initiated, push technology used by Hassett brings new information to the user's desktop once an initial selection of news or other information items has been selected by the subscriber/user. In short, push technology is a system wherein each subscriber receives information, files and/or *advertising* from a network server for display at their local workstation on a refreshed and dynamic basis whenever a predetermined criteria, usually involving idleness of the local workstation, is met (Hassett 1:33-43).

15. Hassett downloads *advertisements* preferably during the night or long periods of user inactivity (Hassett 10:16-19).

Landsman

16. Landsman is directed toward network-distributed advertising. An advertisement is downloaded and subsequently displayed on an interstitial basis (Landsman 1:¶ 0003).

17. Generally speaking and with specific reference to web advertising, interstitial ads are displayed in an interval of time that occurs after a user has clicked on a hot-link displayed by a browser to retrieve a desired web page but before that browser has started rendering that page. Such an interval, commonly referred to as an "interstitial", arises for the simple reason that a browser requires time, once a user clicks on a hotlink for a new page, to fetch a file(s) from a remote web server(s) for that particular page and then fully assemble and render that page. The

1 length of an interstitial interval, which is quite variable, is governed by a
2 variety of factors, including, e.g., a number of files required to fully
3 render the new page and the size of each such file, and network and
4 server congestion and attendant delays occurring when the user activated
5 the hotlink (Landsman 2:¶ 0016).

6 18. Landsman's Transition Sensor applet monitors a click-stream by the
7 user so as to detect a user-initiated page transition. Once such a
8 transition occurs, an interstitial interval starts, and the AdController
9 applet plays a fully cached advertisement. Once the advertisement has
10 fully played, or until the next successive content web page is fully
11 downloaded and assembled, or a user has closed an advertisement
12 window, whichever occurs first, control is returned to the client browser
13 to await completion of the download and interpretation of HTML code
14 that forms that next content page and subsequent execution, of an
15 advertising tag therein to invoke agent download/instantiate/execute
16 operations 50 for that page; and so forth (Landsman 12:¶ 0110).

17 PRINCIPLES OF LAW

18 *Claim Construction*

19 During examination of a patent application, pending claims are given
20 their broadest reasonable construction consistent with the specification. *In*
21 *re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969); *In re Am. Acad. of Sci.*
22 *Tech Ctr.*, 367 F.3d 1359, 1364, (Fed. Cir. 2004).

1 Limitations appearing in the specification but not recited in the claim are not
2 read into the claim. *E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369 (Fed.
3 Cir. 2003) (claims must be interpreted “in view of the specification” without
4 importing limitations from the specification into the claims unnecessarily)

5 Although a patent applicant is entitled to be his or her own lexicographer of
6 patent claim terms, in *ex parte* prosecution it must be within limits. *In re Corr*,
7 347 F.2d 578, 580 (CCPA 1965). The applicant must do so by placing such
8 definitions in the Specification with sufficient clarity to provide a person of
9 ordinary skill in the art with clear and precise notice of the meaning that is to be
10 construed. *See also In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994) (although
11 an inventor is free to define the specific terms used to describe the invention, this
12 must be done with reasonable clarity, deliberateness, and precision; where an
13 inventor chooses to give terms uncommon meanings, the inventor must set out any
14 uncommon definition in some manner within the patent disclosure so as to give
15 one of ordinary skill in the art notice of the change).

16 *Obviousness*

17 A claimed invention is unpatentable if the differences between it and the
18 prior art are “such that the subject matter as a whole would have been obvious at
19 the time the invention was made to a person having ordinary skill in the art.” 35
20 U.S.C. § 103(a) (2000); *KSR Int’l v. Teleflex Inc.*, 127 S.Ct. 1727 (2007); *Graham*
21 *v. John Deere Co.*, 383 U.S. 1, 13-14 (1966).

22 In *Graham*, the Court held that that the obviousness analysis is bottomed on
23 several basic factual inquiries: “[(1)] the scope and content of the prior art are to be
24 determined; [(2)] differences between the prior art and the claims at issue are to be
25 ascertained; and [(3)] the level of ordinary skill in the pertinent art resolved.” 383
26 U.S. at 17. *See also KSR Int’l v. Teleflex Inc.*, 127 S.Ct. at 1734. “The

1 combination of familiar elements according to known methods is likely to be
2 obvious when it does no more than yield predictable results.” *KSR*, at 1739.

3 “When a work is available in one field of endeavor, design incentives and
4 other market forces can prompt variations of it, either in the same field or in a
5 different one. If a person of ordinary skill in the art can implement a predictable
6 variation, § 103 likely bars its patentability.” *Id.* at 1740, 82 USPQ2d at 1396.

7 “For the same reason, if a technique has been used to improve one device,
8 and a person of ordinary skill in the art would recognize that it would improve
9 similar devices in the same way, using the technique is obvious unless its actual
10 application is beyond his or her skill.” *Id.*

11 “Under the correct analysis, any need or problem known in the field of
12 endeavor at the time of invention and addressed by the patent can provide a reason
13 for combining the elements in the manner claimed.” *Id.* at 1742.

14 ANALYSIS

15 *Claims 1-3, 33-35, and 47-49 rejected under 35 U.S.C. § 103(a) as unpatentable*
16 *over Guyot, Hassett, and Landsman.*

17 The Appellants argue these claims as a group.

18 Accordingly, we select claim 1 as representative of the group.
19 37 C.F.R. § 41.37(c)(1)(vii) (2006).

20 The Examiner found that Guyot described elements 1, 2, 4, and 6 (Answer 3-
21 4). The Examiner found that Hassett described element 3. The Examiner found
22 that Hassett’s push technology would have been a more efficient data delivery
23 method and concluded that it would have been obvious to one of ordinary skill to
24 have incorporated Hassett’s push technology with Guyot for the purpose of

1 providing for a more efficient manner in which data is delivered to a subscriber
2 (Answer 5:¶'s Numbered 4 & 5).

3 The Examiner found that Landsman described element 4. The Examiner found
4 that Landsman's interstitial web advertising was an effective advertising technique
5 and concluded that it would have been obvious to one of ordinary skill to have
6 incorporated Landsman's implementations of interstitial web advertising through
7 use of an ad descriptor with the teachings of Guyot and Hassett, for the purpose of
8 improving upon advertising by using interstitial advertising techniques (Answer
9 5:¶'s Numbered 6 & 7).

10 In particular, as regards the Appellants' contentions that follow, the Examiner
11 found that Guyot described element [2] at Guyot 6:46-50 (Answer 4:l. 4-5), and
12 Hassett described element 3 at Hassett 10:16-39 (Answer 5:¶ numbered 4).

13 The Appellants contend that this section of Guyot cited by the Examiner
14 describes a status button that is used to display or hide a status window. They
15 argue that choosing to show or not to show a status window is not the same or
16 analogous to controlling a status of the communication link (Br. 4:Fourth ¶).

17 The Appellants contend that this section of Hassett cited by the Examiner is
18 directed to downloading advertisements via an administrative update connection.
19 The Appellants describe Hassett's administrative update operation as being
20 scheduled in advance, for example, during a user's lunch time or the middle of the
21 night, and may also be accomplished after a predetermined time that a user has not
22 inputted information via keyboard or mouse. They argue that scheduling, in
23 advance is not detecting, nor is the lack of keyboard or mouse input the same as or
24 analogous to the user computer is not actively sending or receiving data from the
25 network (Br. 4:Fifth ¶).

1 Thus, the Appellants have drawn the issues to be resolved as (1) whether Guyot
2 describes element [2]’s launching of a viewer program that controls a status of the
3 communication link and (2) whether Hassett describes element [3]’s detecting
4 times when the user computer is not actively sending or receiving data from the
5 network, and downloading ad files from the network to the user computer during
6 such times.

7 We initially find that all three references are directed towards downloading
8 advertising over the internet (FF 03,12-14, and 16). Guyot describes steps in
9 downloading such advertising as in uncontested claim elements [1], [5], and [6]
10 (FF 04-07). Landsman describes opening and closing windows for interstitial
11 advertising which encompasses claim 1’s uncontested element [4] (FF 17-18).

12 As to the first issue, the Appellants have not provided a lexicographic
13 definition of “controls” as in claim 1 element [2], but the usual and ordinary
14 meaning is to exercise authoritative or dominating influence over or to regulate (FF
15 01-02). Guyot’s application window is a viewer program that, since it runs, must
16 be launched, because in a computing context, a launch is simply a beginning of
17 operation.

18 The application window contains a status window and a status button. An
19 indicator informs the user of a need to connect to the server to update a queue. The
20 window may be interactive (FF 08-11).

21 Each of these items within Guyot’s window regulates the operation of the
22 window. A status window provides feedback to a user for control and the status
23 button regulates which portions of the window are visible to provide feedback. An
24 indicator informing a user provides feedback, and interactivity provides the
25 capacity to control input and output. The operation of the application window

1 connected to the internet is part of the status. i.e state, of the communication link
2 that connects the window to the internet. Accordingly, we find that Guyot
3 describes element [2]’s launching of a viewer program that controls a status of the
4 communication link.

5 As to the second issue, Hassett describes downloading advertisements during
6 long periods of user inactivity (FF 15). Thus, Hassett detects the amount of
7 computer activity and performs downloads when activity is reduced. Although
8 Hassett characterizes the activity sensed as user activity rather than user computer
9 activity, “the analysis need not seek out precise teachings directed to the specific
10 subject matter of the challenged claim, for a court can take account of the
11 inferences and creative steps that a person of ordinary skill in the art would
12 employ.” (*KSR*, 127 S. Ct. at 1741.)

13 One of ordinary skill would immediately recognize that Hassett is simply
14 detecting when the most processing power would be available for downloading,
15 i.e., when the computer would have the most resources available for sending and
16 receiving data from the network. Lack of user activity would imply lack of
17 actively sending and receiving data from a network in an interactive context, such
18 as the internet, and detecting lack of user activity would also directly sense that,
19 not only data transmission, but data entry is reduced as well, effectively improving
20 upon detection for transmission alone. Thus, we find that Hassett’s detection of
21 lack of user input to trigger downloading is a means for implementing claim 1,
22 element [3]’s detecting times when the user computer is not actively sending or
23 receiving data from the network, and downloading ad files from the network to the
24 user computer during such times.

1 The Appellants have not sustained their burden of showing that the Examiner
2 erred in rejecting claims 1-3, 33-35, and 47-49 under 35 U.S.C. § 103(a) as
3 unpatentable over Guyot, Hassett, and Landsman.

4
5 *Claims 4, 12-22, 36, 42-46, 50, and 56-60 rejected under 35 U.S.C. § 103(a) as*
6 *unpatentable over Guyot, Hassett, Landsman, and Merriman.*

7 The Appellants have argued that these claims are patentable for the same
8 reasons as claim 1, and therefore these claims stand or fall with claim 1 (Br. 5:
9 Third and fourth full ¶'s). The Appellants have not sustained their burden of
10 showing that the Examiner erred in rejecting claims 4, 12-22, 42-46, 50, and 56-60
11 under 35 U.S.C. § 103(a) as unpatentable over Guyot, Hassett, Landsman, and
12 Merriman.

13
14 *Claims 5-10, 37-40, and 51-54 rejected under 35 U.S.C. § 103(a) as unpatentable*
15 *over Guyot, Hassett, Landsman, and Palmer.*

16 The Appellants have argued that these claims are patentable for the same
17 reasons as claim 1, and therefore these claims stand or fall with claim 1 (Br. 5:Last
18 full ¶ - 6:First two lines). The Appellants have not sustained their burden of
19 showing that the Examiner erred in rejecting claims 5-10, 37-40, and 51-54 under
20 35 U.S.C. § 103(a) as unpatentable over Guyot, Hassett, Landsman, and Palmer.

1 *Claims 11, 41, and 55 rejected under 35 U.S.C. § 103(a) as unpatentable over*
2 *Guyot, Hassett, Landsman, and Radziewicz.*

3 The Appellants have argued that these claims are patentable for the same
4 reasons as claim 1, and therefore these claims stand or fall with claim 1 (Br.
5 6:Second and third ¶'s). The Appellants have not sustained their burden of
6 showing that the Examiner erred in rejecting claims 11, 41, and 55 under 35 U.S.C.
7 § 103(a) as unpatentable over Guyot, Hassett, Landsman, and Radziewicz.

8 CONCLUSIONS OF LAW

9 The Appellants have not sustained their burden of showing that the Examiner
10 erred in rejecting claims 1-22 and 33-60 under 35 U.S.C. § 103(a) as unpatentable
11 over the prior art.

12 On this record, the Appellants are not entitled to a patent containing
13 claims 1-22 and 33-60.

14 DECISION

15 To summarize, our decision is as follows:

- 16 • The rejection of claims 1-3, 33-35, and 47-49 under 35 U.S.C. § 103(a) as
17 unpatentable over Guyot, Hassett, and Landsman is sustained.

18 The rejection of claims 4, 12-22, 42-46, 50, and 56-60 under 35 U.S.C. § 103(a)
19 as unpatentable over Guyot, Hassett, Landsman, and Merriman is sustained.

- 20 • The rejection of claims 5-10, 37-40, and 51-54 under 35 U.S.C. § 103(a) as
21 unpatentable over Guyot, Hassett, Landsman, and Palmer is sustained.

- The rejection of claims 11, 41, and 55 under 35 U.S.C. § 103(a) as unpatentable over Guyot, Hassett, Landsman, and Radziewicz is sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

vsh

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